



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

☞ Appendix A

LRB BILL HISTORY RESEARCH APPENDIX

☞ The drafting file for 2013 LRB-1759 (For: Rep. Knudson)

has been copied/added to the drafting file for

2013 LRB-1973 (For: Rep. Knudson)

☞ Are These "Companion Bills" ?? ... No



RESEARCH APPENDIX -
PLEASE KEEP WITH THE DRAFTING FILE

Date Transfer Requested: 03/26/2013 (Per: PJK)

☞ The attached draft was incorporated into the new draft listed above. For research purposes the attached materials were added, as a appendix, to the new drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

2013 DRAFTING REQUEST

Bill

Received: **2/28/2013** Received By: **pkahler**
Wanted: **As time permits** Same as LRB:
For: **Dean Knudson (608) 266-1526** By/Representing: **Matt Rossetto**
May Contact: Drafter: **pkahler**
Subject: **Insurance - other insurance** Addl. Drafters:
Extra Copies:

Submit via email: **YES**
Requester's email: **Rep.Knudson@legis.wisconsin.gov**
Carbon copy (CC) to: **Tamara.Dodge@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Exclude certain annuities from regulation by OCI

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 3/1/2013	csicilia 3/14/2013	phenry 3/14/2013	_____			
/P1	pkahler 3/15/2013			_____	srose 3/14/2013		
/1		csicilia 3/18/2013	jfrantze 3/18/2013	_____	srose 3/18/2013		

FE Sent For:

<END>

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FE Sent For:

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/? pkahler

Plgs 3/14/13
13

4/15/13

FE Sent For:

<END>

Kahler, Pam

From: Kreye, Joseph
Sent: Wednesday, February 27, 2013 9:46 AM
To: Kahler, Pam; Dodge, Tamara
Subject: gift annuities

Pam and Tami,

Matt from Rep. Knudson's office (6-1526) called this morning looking to get a bill draft which would modify (repeal?) chapter 615. They have been looking at Indiana and Minnesota law as models, but I think their goal is to eliminate the regulation of gift annuities. I included links to the cites that Matt gave me. Would one of you contact him to let him know you'll be working on it (and not me...yay!)?

<http://www.in.gov/legislative/ic/archive/11620/ic/2010/title27/ar1/ch12.4.pdf>

<https://www.revisor.leg.state.mn.us/statutes/?id=80A.45>

Joe

Joseph T. Kreye
Senior Legislative Attorney
Legislative Reference Bureau
608 266 2263

80A.45 Section 201

even 49-54 + 71

IC 27-1-12.4

IC 27-1-12.4-1

IC 27-1-12.4-2

intent:

exclude from OCT regulation the
annuities described
in the Indiana statute
"charitable gift annuities"?

3-15

per Matt

redraft to make it introducible

IC 27-1-12.4

Chapter 12.4. Charitable Gift Annuities

IC 27-1-12.4-1

"Internal Revenue Code" defined

Sec. 1. As used in this chapter, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended and in effect on January 1, 1994.

As added by P.L.131-1994, SEC.1.

IC 27-1-12.4-2

Annuities exempt from regulation

Sec. 2. An annuity is not subject to regulation by the department under IC 27 if the annuity:

(1) is established under a transaction that, for federal income tax purposes, is treated:

(A) in part as a charitable contribution under Section 170 of the Internal Revenue Code; and

(B) in part as an investment in an annuity contract under Section 72 of the Internal Revenue Code; and

(2) meets the requirements for exclusion from the definition of "acquisition indebtedness" under Section 514(c)(5) of the Internal Revenue Code.

As added by P.L.131-1994, SEC.1.

2012 Minnesota Statutes

80A.45 SECTION 201; EXEMPT SECURITIES.

The following securities are exempt from the requirements of sections 80A.49 through 80A.54 and 80A.71:

(1) a security, including a revenue obligation or a separate security as defined in Rule 131 (17 C.F.R. 230.131) adopted under the Securities Act of 1933, issued, insured, or guaranteed by the United States; by a state; by a political subdivision of a state; by a public authority, agency, or instrumentality of one or more states; by a political subdivision of one or more states or by a person controlled or supervised by and acting as an instrumentality of the United States under authority granted by Congress; or a certificate of deposit for any of the foregoing;

(2) a security issued, insured, or guaranteed by a foreign government with which the United States maintains diplomatic relations, or any of its political subdivisions, if the security is recognized as a valid obligation by the issuer, insurer, or guarantor;

(3) a security issued by and representing or that will represent an interest in or a direct obligation of, or be guaranteed by:

(A) an international banking institution;

(B) a banking institution organized under the laws of the United States; a member bank of the Federal Reserve System; or a depository institution a substantial portion of the business of which consists or will consist of receiving deposits or share accounts that are insured to the maximum amount authorized by statute by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund, or a successor authorized by federal law or exercising fiduciary powers that are similar to those permitted for national banks under the authority of the Comptroller of Currency pursuant to Section 1 of Public Law 87-722 (12 U.S.C. Section 92a); or

(C) any other depository institution, unless by rule or order the administrator proceeds under section 80A.48;

(4) a security issued by and representing an interest in, or a debt of, or insured or guaranteed by, an insurance company authorized to do business in this state;

(5) a security issued or guaranteed by a railroad, other common carrier, public utility, or public utility holding company that is:

(A) regulated in respect to its rates and charges by the United States or a state;

(B) regulated in respect to the issuance or guarantee of the security by the United States, a state, Canada, or a Canadian province or territory; or

(C) a public utility holding company registered under the Public Utility Holding Company Act of 1935 or a subsidiary of such a registered holding company within the meaning of that act;

(6) a federal covered security specified in Section 18(b)(1) of the Securities Act of 1933 (15 U.S.C. Section 77r(b)(1)) or by rule adopted under that provision or a security listed or approved for listing on another securities market specified by rule under this chapter; a put or a call option contract; a warrant; a subscription right on or with respect to such securities; or an option or similar derivative security on a security or an index of securities or foreign currencies issued by a clearing agency registered under the Securities Exchange Act of 1934 and listed or designated for trading on a national securities exchange, a facility of a national securities exchange, or a facility of a national securities association registered under the Securities Exchange Act of 1934 or an offer or sale, of the underlying security in connection with the offer, sale, or exercise of an option or other security that was exempt when the option or other security was written

or issued; or an option or a derivative security designated by the Securities and Exchange Commission under Section 9(b) of the Securities Exchange Act of 1934 (15 U.S.C. Section 78i(b));

(7) a security issued by a person organized and operated exclusively for religious, educational, benevolent, fraternal, charitable, social, athletic, or reformatory purposes, or as a chamber of commerce, and not for pecuniary profit, no part of the net earnings of which inures to the benefit of a private stockholder or other person, or a security of a company that is excluded from the definition of an investment company under Section 3(c)(10)(B) of the Investment Company Act of 1940 (15 U.S.C. Section 80a-3(c)(10)(B)); except that with respect to the offer or sale, an issuer of such a note, bond, debenture, or other evidence of indebtedness is required to file a notice specifying the material terms of the proposed offer or sale and copies of any proposed sales and advertising literature to be used together with the fee required by section 80A.65 and provided that this exemption shall be effective if the administrator does not disallow the exemption in writing within 15 days following the date of the notice filing.

History: 2006 c 196 art 1 s 6, 52



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1759/2

PJK:.....

(in comh)

cjs r mnd m

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-210
(i-3-1)

gen cod

To meet the second
criteria just described,
an annuity must be

Ref-✓

1 AN ACT relating to: exemption from regulation for certain annuities.

Analysis by the Legislative Reference Bureau

An annuity is an insurance contract under which the insurer agrees to pay the person covered under the annuity (annuitant) periodic payments, starting immediately or at a future date, for a set period of time or an indefinite period of time, such as for the remainder of the annuitant's life. Annuities and their sale are regulated by the office of the commissioner of insurance (OCI). This bill exempts from all regulation by OCI an annuity: 1) that is established under a transaction that is treated, for federal income tax purposes, partly as a charitable contribution and partly as an investment in an annuity contract, and 2) for which the obligation to pay is not an "acquisition indebtedness" under a provision in the Internal Revenue Code. Specifically, that is an annuity that is the sole consideration issued in exchange for property, and the value of which is less than 90 percent of the value of the property; that is payable over the life of one or two individuals in being at the time the annuity is issued; and that is payable under a contract that does not guarantee a minimum amount, or specify a maximum amount, of payments and that does not provide for an adjustment in the amount of the annuity payments by reference to the income received from the transferred, or any other, property.

if

the annuity

must be

must be

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 632.65 of the statutes is created to read:

SECTION 1

cat

1 **632.65 Annuities exempt from regulation.** Notwithstanding any provision
2 of chs. 600 to 646 to the contrary, an annuity that satisfies all of the following criteria
3 is not subject to regulation under chs. 600 to 646: ✓

(1) The annuity is established under a transaction that, for federal income tax purposes, is treated partly as a charitable contribution under section 170 of the Internal Revenue Code and partly as an investment in an annuity contract under section 72 of the Internal Revenue Code.

8 **(2)** The annuity meets the requirements of an annuity for which the obligation
9 to pay is excluded from the definition of “acquisition indebtedness” under section 514
10 (c) (5) of the Internal Revenue Code.

11 (END)

D-ns to

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1759/7dn
PJK:.....

ys

date

2 tracks

This draft follows the language of Indiana Code 27-1-12.4-2. The Minnesota statute to which I was referred (80A.45, section 201) gave exemptions for certain securities that did not include annuities and, therefore, did not seem applicable. It may not have been the correct statute. ✓

I do not know what, if any, regulation is occurring currently that you want to eliminate. The draft makes certain annuities exempt from regulation by OCI, but does not exempt an issuer of such an annuity from regulation by OCI. (Is regulation of the issuer of an annuity regulation of the annuity?) Consequently, there may be some aspect of regulation by OCI that you wish to eliminate that is not affected by this bill.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1759/P1dn
PJK:cjs:ph

March 14, 2013

This draft tracks the language of Indiana Code 27-1-12.4-2. The Minnesota statute to which I was referred (80A.45, section 201) gave exemptions for certain securities that did not include annuities and, therefore, did not seem applicable. It may not have been the correct statute.

I do not know what, if any, regulation is occurring currently that you want to eliminate. The draft makes certain annuities exempt from regulation by OCI, but does not exempt an issuer of such an annuity from regulation by OCI. (Is regulation of the issuer of an annuity regulation of the annuity?) Consequently, there may be some aspect of regulation by OCI that you wish to eliminate that is not affected by this bill.

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E-mail: pam.kahler@legis.wisconsin.gov



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1759/

PJK:cjs:ph

Stays r m is luv

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

(in 3-15)

2013 Bill

Gen Cat

- 1 AN ACT to create 632.65 of the statutes; relating to: exemption from regulation
2 for certain annuities.

Analysis by the Legislative Reference Bureau

An annuity is an insurance contract under which the insurer agrees to pay the person covered under the annuity (annuitant) periodic payments, starting immediately or at a future date, for a set period of time or an indefinite period of time, such as for the remainder of the annuitant's life. Annuities and their sale are regulated by the office of the commissioner of insurance (OCI). This bill exempts from all regulation by OCI an annuity: 1) that is established under a transaction that is treated, for federal income tax purposes, partly as a charitable contribution and partly as an investment in an annuity contract, and 2) for which the obligation to pay is not an "acquisition indebtedness" under a provision in the Internal Revenue Code. To meet the second criteria just described, an annuity must be the sole consideration issued in exchange for property, if the value of the annuity is less than 90 percent of the value of the property; must be payable over the life of one or two individuals in being at the time the annuity is issued; and must be payable under a contract that does not guarantee a minimum amount, or specify a maximum amount, of payments and that does not provide for an adjustment in the amount of the annuity payments by reference to the income received from the transferred, or any other, property.

criteria
criteria

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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(2) The annuity meets the requirements of an annuity for which the obligation to pay is excluded from the definition of “acquisition indebtedness” under section 514 (c) (5) of the Internal Revenue Code.

(END)



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1759/2
PJK:cjs:jf

2013 BILL

- 1 **AN ACT to create** 632.65 of the statutes; **relating to:** exemption from regulation
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Analysis by the Legislative Reference Bureau

An annuity is an insurance contract under which the insurer agrees to pay the person covered under the annuity (annuitant) periodic payments, starting immediately or at a future date, for a set period of time or an indefinite period of time, such as for the remainder of the annuitant's life. Annuities and their sale are regulated by the office of the commissioner of insurance (OCI). This bill exempts from all regulation by OCI an annuity: 1) that is established under a transaction that is treated, for federal income tax purposes, partly as a charitable contribution and partly as an investment in an annuity contract, and 2) for which the obligation to pay is not an "acquisition indebtedness" under a provision in the Internal Revenue Code. To meet the second criterion just described, an annuity must be the sole consideration issued in exchange for property, if the value of the annuity is less than 90 percent of the value of the property; must be payable over the life of one or two individuals in being at the time the annuity is issued; and must be payable under a contract that does not guarantee a minimum amount, or specify a maximum amount, of payments and that does not provide for an adjustment in the amount of the annuity payments by reference to the income received from the transferred, or any other, property.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

BILL

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12 (END)